

AMENDED IN SENATE MARCH 26, 2014

**SENATE BILL**

**No. 1320**

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**Introduced by Senator Torres**

February 21, 2014

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An act to ~~amend Section 11463 of the Welfare and Institutions Code, relating to public social services~~; *add Section 14007.3 to the Welfare and Institutions Code, relating to Medi-Cal.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1320, as amended, Torres. ~~Social services—Medi-Cal: eligibility.~~

*Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions.*

*This bill would allow a military service member's dependent, who is receiving home- and community-based services, to retain eligibility for those services or have his or her benefits temporarily suspended while he or she is living out of state due to the military service member being posted outside the state on military assignment, as provided. The bill would require the department, when an application is submitted on behalf of a military service member's dependent to receive home- and community-based services, to determine whether the dependent is eligible and qualified to receive those services, excluding from consideration any military service health benefit plan coverage that the dependent may be receiving at the time of the application. The bill would also require the department to approve the application if the dependent is otherwise eligible, require the department to direct services to the dependent upon receipt of certain documents, and require the*

*services to be furnished on the date of the dependent's expected residency in this state.*

~~Existing law establishes the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which counties provide payments to foster care providers on behalf of qualified children in foster care. The program is funded by a combination of federal, state, and county funds. Under existing law, AFDC-FC benefits are available, with specified exceptions, on behalf of qualified children under 18 years of age. Existing law requires the State Department of Social Services, with the advice, assistance, and cooperation of the counties and foster care providers, to develop, implement, and maintain a ratesetting system for foster family agencies. Existing law requires that the AFDC-FC basic rate payment made to a certified home of a foster family agency be equal to the basic rate paid for children placed in a licensed or approved foster home.~~

~~This bill would make technical, nonsubstantive changes to those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     *SECTION 1. Section 14007.3 is added to the Welfare and*
- 2     *Institutions Code, to read:*
- 3     *14007.3. (a) (1) A dependent of a military service member,*
- 4     *who is receiving home- and community-based services under the*
- 5     *state's Section 1915(c) waiver, shall retain eligibility for those*
- 6     *services or have his or her benefits temporarily suspended if the*
- 7     *military service member is a resident of the state and if the*
- 8     *dependent leaves the state due to the military service member being*
- 9     *posted outside the state on military assignment. When the*
- 10    *dependent returns to the state, the dependent shall continue to*
- 11    *receive services under the waiver as though the dependent had*
- 12    *remained in the state during the period in which the dependent*
- 13    *was residing outside the state.*
- 14    *(2) The military service member may be considered a resident*
- 15    *of this state if the military service member demonstrates intent to*
- 16    *make California his or her principal place of residence. Factors*
- 17    *supporting this intent include all of the following:*
- 18    *(A) Being registered to vote in California.*

1 (B) Filing a California income tax return in the preceding year.  
2 (C) Holding a current, valid California driver's license or  
3 identification card.

4 (b) (1) When an application is submitted on behalf of a military  
5 service member's dependent to receive services under the state's  
6 Section 1915(c) waiver, the department shall determine whether  
7 the dependent is eligible and qualified to receive services provided  
8 under the home- and community-based services programs,  
9 excluding from consideration any military service health benefit  
10 plan coverage that the dependent may be receiving at the time of  
11 the application. If the dependent is otherwise eligible, the  
12 department shall approve the application.

13 (2) The department shall direct services to the dependent upon  
14 receipt of the military service member's DD Form 214, Certificate  
15 of Release or Discharge from Active Duty, and a statement that  
16 the dependent is a California resident.

17 (3) If the dependent is not yet residing in the state, services shall  
18 be furnished on the date of the dependent's expected date of  
19 residency.

20 (c) If necessary, the department shall request an amendment to  
21 the state's Section 1915(c) waiver in order to implement these  
22 provisions.

23 (d) The department may adopt rules and regulations to  
24 implement the provisions of this section, as necessary.

25 (e) For purposes of this section, the following definitions apply:

26 (1) "Dependent" means the spouse, birth child, adopted child,  
27 or stepchild of a military service member.

28 (2) "Military service member" means a person serving in the  
29 United States Armed Forces or Military Reserve.

30 (3) "Section 1915(c) waiver" means home- and  
31 community-based waivers for the developmentally disabled under  
32 Section 1915(c) of the federal Social Security Act (42 U.S.C. Sec.  
33 1396n(c)).

34 ~~SECTION 1. Section 11463 of the Welfare and Institutions~~  
35 ~~Code is amended to read:~~

36 ~~11463. (a) (1) The department, with the advice, assistance,~~  
37 ~~and cooperation of the counties and foster care providers, shall~~  
38 ~~develop, implement, and maintain a ratesetting system for foster~~  
39 ~~family agencies.~~

~~(2) A county shall not be reimbursed for any percentage increases in payments, made on behalf of AFDC-FC funded children who are placed with foster family agencies, that exceed the percentage cost-of-living increase provided in any fiscal year beginning on January 1, 1990, as specified in subdivision (c) of Section 11461.~~

~~(b) The department shall develop regulations specifying the purposes, types, and services of foster family agencies, including the use of those agencies for the provision of emergency shelter care. A distinction, for ratesetting purposes, shall be drawn between foster family agencies that provide treatment of children in foster families and those that provide nontreatment services.~~

~~(c) The department shall develop and maintain regulations specifying the procedure for the appeal of department decisions about the setting of an agency's rate.~~

~~(d) On and after July 1, 1998, the schedule of rates, and the components used in the rate calculations specified in the department's regulations, for foster family agencies shall be increased by 6 percent, rounded to the nearest dollar. The resultant amounts shall constitute the new schedule of rates for foster family agencies.~~

~~(e) (1) On and after July 1, 1999, the schedule of rates and the components used in the rate calculations specified in the department's regulations for foster family agencies shall be adjusted by an amount equal to the California Necessities Index computed pursuant to Section 11453, rounded to the nearest dollar, subject to the availability of funds. The resultant amounts shall constitute the new schedule of rates for foster family agencies, subject to further adjustment pursuant to paragraph (2).~~

~~(2) In addition to the adjustment specified in paragraph (1), commencing January 1, 2000, the schedule of rates and the components used in the rate calculations specified in the department's regulations for foster family agencies shall be increased by 2.36 percent, rounded to the nearest dollar. The resultant amounts shall constitute the new schedule of rates for foster family agencies.~~

~~(f) For the 1999-2000 fiscal year, foster family agency rates that are not determined by the schedule of rates set forth in the department's regulations, shall be increased by the same percentage as provided in subdivision (e).~~

1     ~~(g) (1) For the 2000-01 fiscal year and each fiscal year~~  
2     ~~thereafter, the foster family agency rate shall be supplemented by~~  
3     ~~one hundred dollars (\$100) for clothing per year per child in care,~~  
4     ~~subject to the availability of funds. The supplemental payment~~  
5     ~~shall be used to supplement, and shall not be used to supplant, any~~  
6     ~~clothing allowance paid in addition to the foster family agency~~  
7     ~~rate.~~

8     ~~(2) Notwithstanding paragraph (1), commencing with the~~  
9     ~~2012-13 fiscal year, and each fiscal year thereafter, no~~  
10    ~~supplemental clothing allowance shall be provided, because the~~  
11    ~~rate issued in accordance with paragraph (1) of subdivision (m)~~  
12    ~~takes the cost of clothing into account.~~

13    ~~(h) In addition to the adjustment made pursuant to subdivision~~  
14    ~~(e), the component for social work activities in the rate calculation~~  
15    ~~specified in the department's regulations for foster family agencies~~  
16    ~~shall be increased by 10 percent, effective January 1, 2001. This~~  
17    ~~additional funding shall be used by foster family agencies solely~~  
18    ~~to supplement staffing, salaries, wages, and benefit levels of staff~~  
19    ~~performing social work activities. The schedule of rates shall be~~  
20    ~~recomputed using the adjusted amount for social work activities.~~  
21    ~~The resultant amounts shall constitute the new schedule of rates~~  
22    ~~for foster family agencies. The department may require a foster~~  
23    ~~family agency receiving this additional funding to certify that the~~  
24    ~~funding was utilized in accordance with the provisions of this~~  
25    ~~section.~~

26    ~~(i) The increased rate provided by subparagraph (C) of paragraph~~  
27    ~~(1) of subdivision (d) of Section 11461 shall not be used to compute~~  
28    ~~the monthly amount that may be paid to licensed foster family~~  
29    ~~agencies for the placement of children in certified foster homes.~~

30    ~~(j) The total foster family agency rate by age group in effect as~~  
31    ~~of January 1, 2008, paid to licensed foster family agencies for the~~  
32    ~~placement of children in certified foster family homes, shall be~~  
33    ~~reduced by 10 percent, effective October 1, 2009. The foster family~~  
34    ~~agency shall have flexibility in applying the reduction, however,~~  
35    ~~nothing shall be deducted from the child base rate, as defined in~~  
36    ~~departmental regulations. When the rate is restored to at least the~~  
37    ~~rate in effect on September 1, 2009, the director shall issue the~~  
38    ~~declaration described in Section 1506.3 of the Health and Safety~~  
39    ~~Code.~~

1 ~~(k) Effective October 1, 2009, the total foster family agency~~  
2 ~~rate by age group, in effect for those agency rates that are not~~  
3 ~~determined by the schedule of rates set forth in the department's~~  
4 ~~regulations, shall be reduced by the same percentage and in the~~  
5 ~~same manner as provided for in subdivision (j).~~

6 ~~(l) (1) The department shall determine, consistent with the~~  
7 ~~requirements of this section and other relevant requirements under~~  
8 ~~law, the rate category for each foster family agency on a biennial~~  
9 ~~basis. Submission of the biennial rate application shall be according~~  
10 ~~to a schedule determined by the department.~~

11 ~~(2) The department shall adopt regulations to implement this~~  
12 ~~subdivision. The adoption, amendment, repeal, or readoption of a~~  
13 ~~regulation authorized by this subdivision is deemed to be necessary~~  
14 ~~for the immediate preservation of the public peace, health and~~  
15 ~~safety, or general welfare, for purposes of Sections 11346.1 and~~  
16 ~~11349.6 of the Government Code, and the department is hereby~~  
17 ~~exempted from the requirement to describe specific facts showing~~  
18 ~~the need for immediate action.~~

19 ~~(m) (1) On and after July 1, 2012, the basic rate payment that~~  
20 ~~shall be made to a certified parent pursuant to this section for the~~  
21 ~~care and supervision of a child who is living in a certified home~~  
22 ~~of a foster family agency, as defined in Section 11400, shall be~~  
23 ~~equal to the basic rate for children based in a licensed or approved~~  
24 ~~home, as specified in paragraph (1) of subdivision (g) of Section~~  
25 ~~11461.~~

26 ~~(2) The basic rate payment to the certified parent made pursuant~~  
27 ~~to paragraph (1) shall be adjusted annually on July 1, by the annual~~  
28 ~~percentage change in the California Necessities Index, in~~  
29 ~~accordance with paragraph (2) of subdivision (g) of Section 11461.~~  
30 ~~The adjustment in this paragraph shall be in lieu of any adjustment~~  
31 ~~pursuant to subdivision (e).~~

32 ~~(n) Notwithstanding any other law, the changes to the basic rate~~  
33 ~~payment specified in subdivision (m) shall not change the~~  
34 ~~remaining components of the foster family agency rate. The new~~  
35 ~~foster family agency rate shall be increased only by the amounts~~  
36 ~~specified pursuant to subdivision (m). The resulting amounts shall~~  
37 ~~constitute the new schedule of rates for foster family agencies,~~  
38 ~~which shall be issued by all-county letters or similar instructions~~  
39 ~~from the department.~~

1     ~~(o) Beginning in the 2011–12 fiscal year, and for each fiscal~~  
2     ~~year thereafter, funding and expenditures for programs and~~  
3     ~~activities under this section shall be in accordance with the~~  
4     ~~requirements provided in Sections 30025 and 30026.5 of the~~  
5     ~~Government Code.~~

6     ~~(p) (1) Notwithstanding the rulemaking provisions of the~~  
7     ~~Administrative Procedure Act (Chapter 3.5 (commencing with~~  
8     ~~Section 11340) of Part 1 of Division 3 of Title 2 of the Government~~  
9     ~~Code), the department may implement, interpret, or make specific~~  
10    ~~the changes to this section made by Chapter 35 of the Statutes of~~  
11    ~~2012, and amend and repeal regulations and orders subject to this~~  
12    ~~section and adopted by the department by means of all county~~  
13    ~~letters or similar instructions from the department until regulations~~  
14    ~~are adopted. The department shall adopt emergency regulations~~  
15    ~~no later than July 1, 2014. The department may readopt any~~  
16    ~~emergency regulation authorized by this section that is the same~~  
17    ~~as, or substantially equivalent to, an emergency regulation~~  
18    ~~previously adopted under this section.~~

19    ~~(2) The initial adoption of emergency regulations pursuant to~~  
20    ~~this section and one readoption of emergency regulations shall be~~  
21    ~~deemed an emergency and necessary for the immediate~~  
22    ~~preservation of the public peace, health, safety, or general welfare.~~  
23    ~~Initial emergency regulations and the one readoption of emergency~~  
24    ~~regulations authorized by this section shall be exempt from review~~  
25    ~~by the Office of Administrative Law. The initial emergency~~  
26    ~~regulations and the one readoption of emergency regulations~~  
27    ~~authorized by this section shall be submitted to the Office of~~  
28    ~~Administrative Law for filing with the Secretary of State and each~~  
29    ~~shall remain in effect for no more than 180 days, by which time~~  
30    ~~final regulations may be adopted.~~